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FILED

JUL 19 2005

CLERK, U.S. DISTRICT COURT
By dg Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CURTIS DOBBINS, JR., #687734,

§

Petitioner,

§

Civil Action No. 3:05-CV-1159-L

§

DOUGLAS DRETKE, Director
Texas Department of Criminal Justice,
Correctional Institutions Divisions,

§

§

§

Respondent.

§

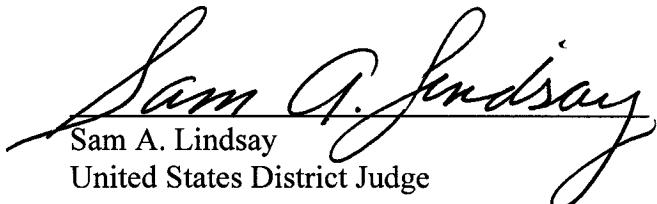
MEMORANDUM OPINION AND ORDER

This is a habeas case brought under 28 U.S.C. § 2254. Pursuant to 28 U.S.C. §636(b), and an order of the court in implementation thereof, this action was referred to the United States magistrate judge for proposed findings and recommendation. On June 28, 2005, the Findings, Conclusions and Recommendation of the United States Magistrate Judge were filed, to which Petitioner filed objections on July 6, 2005.

The magistrate judge found that the district court lacked jurisdiction to consider Petitioner's application for the writ of habeas corpus, since all the claims raised in the petition were "second or successive" claims, that is, the petition raised claims that were, or could have been, raised in an earlier petition. Based on these findings, the magistrate judge recommended that the petition be dismissed without prejudice for want of jurisdiction under 28 U.S.C. § 2244(b)(3)(A), as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), which requires that a second or successive habeas petition pursuant to § 2254 must be certified by a panel of the appropriate court of appeals before it can be heard in district court. Petitioner admits in his

objections that the claims in his current petition could have been raised in an earlier petition he filed, but were not, allegedly due to inadequate legal representation. Having reviewed the pleadings, file and record in this case, the findings and conclusions of the magistrate judge, and Petitioner's objections thereto, the court determines that the findings and conclusions are correct. The magistrate judge's findings are accepted as those of the court. Petitioner's objections are **overruled**. Accordingly, Petitioner's petition for habeas corpus is **dismissed without prejudice** for lack of jurisdiction.

It is so ordered this 19th day of July, 2005.



Sam A. Lindsay
United States District Judge